

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-40442
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

HERIBERTO LEAL-BERNAL,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. M-01-CR-21-1

February 21, 2002

Before JOLLY, JONES, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Heriberto Leal-Bernal appeals the 77-month sentence imposed following his guilty plea to a charge of being found in the United States after deportation, a violation of 8 U.S.C. § 1326. He contends that his felony conviction for burglary of a vehicle that resulted in his increased sentence was not an aggravated felony under 8 U.S.C. § 1326(b)(2) and U.S.S.G. § 2L1.2(b)(1)(A).

Leal-Bernal acknowledges that his argument is foreclosed by our decision in United States v. Ramos-Garcia, 95 F.3d 369, 371-72 (5th Cir. 1996), but he seeks to preserve the issue for

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

further review. We are bound by our own precedent absent an intervening Supreme Court decision or a subsequent en banc decision. See United States v. Garcia Abrego, 141 F.3d 142, 151 n.1 (5th Cir. 1998). Leal-Bernal's argument is foreclosed by Ramos-Garcia. The district court's judgment is AFFIRMED.